

1 Steven H. Sackmann, #00618  
2 Sackmann Law Office  
3 P. O. Box 409 - 455 E. Hemlock, #A  
4 Othello, Washington 99344  
5 (509) 488-5636 - phone  
6 (509) 488-6126 - FAX  
7  
8 Attorney for Debtor  
9

HON. JOHN A. ROSSMEISSL  
Chapter 11

10  
11 IN THE UNITED STATES BANKRUPTCY COURT  
12 FOR THE EASTERN DISTRICT OF WASHINGTON  
13

14 In Re: ) NO. 05-06600-JAR  
15 )  
16 CERVANTES ORCHARDS & ) FINDINGS OF FACT AND  
17 VINEYARDS, LLC, ) CONCLUSIONS OF LAW  
18 ) REGARDING CONFIRMATION  
19 Debtor. ) OF PLAN  
20 \_\_\_\_\_ )  
21

22 THIS MATTER having come on regularly for hearing before the Honorable John A.  
23 Rossmeissl, Chief Bankruptcy Judge for the Eastern District of Washington, on the \_\_\_\_ day  
24 of \_\_\_\_\_, 2007, and CERVANTES ORCHARDS & VINEYARDS, LLC,  
25 (hereinafter "Debtor" and/or "CERVANTES") appearing by and through his attorney of record,  
26 STEVEN H. SACKMANN, and JOSE G. CERVANTES, being sworn and testifying as Debtor,  
27 and having submitted testimony by Declaration and the Court having considered the Declaration  
28 and the testimony offered in support of confirmation of the Plan and deeming itself fully advised  
29 in the premises, now makes the following

30 **FINDINGS OF FACT:**

31 A. **Procedural Status.** On or about March 7, 2006, Debtor filed its Chapter 11  
32 Plan of Reorganization and Chapter 11 Disclosure Statement.

33 Debtor filed its First Amended Chapter 11 Plan of Reorganization and First  
34 Amended Chapter 11 Disclosure Statement on or about March 21, 2006.

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
REGARDING CONFIRMATION OF PLAN - 1

sackmannlaw:CLIENTS:CERVANTES ORCHARDS & VINEYARDS:PLAN:FINDINGS OF FACT PLAN (4/10/07)

1 Debtor filed its Second Amended Chapter 11 Plan of Reorganization and Second  
2 Amended Chapter 11 Disclosure Statement on or about August 31, 2006.

3 Debtor filed its Third Amended Chapter 11 Plan of Reorganization and Third  
4 Amended Chapter 11 Disclosure Statement on or about October 5, 2006.

5 Debtor filed its Fourth Amended Chapter 11 Plan of Reorganization and Fourth  
6 Amended Chapter 11 Disclosure Statement on or about October 20, 2006.

7 On October 23, 2006, the Court entered an Order approving disclosure and  
8 setting confirmation with respect to the Fourth Amended Chapter 11 Disclosure Statement and  
9 the Fourth Amended Chapter 11 Plan of Reorganization.

10 On October 26, 2006, Debtor caused to be mailed to all creditors and other  
11 parties in interest a plan solicitation package that included:

- 12 a. Notice of Approval of Disclosure Statement, Proposed
- 13 Plan of Reorganization and Matters Relating to
- 14 Confirmation of Plan
- 15 b. Fourth Amended Chapter 11 Plan of Reorganization
- 16 c. Fourth Amended Disclosure Statement
- 17 d. List Classifying Claims and Interest
- 18 e. Ballot for Accepting or Rejecting Plan of Reorganization
- 19

20 The deadline for voting on the Plan was November 27, 2006.

21 B. **Ballot Summary.** A summary of the acceptances and rejections of Debtor's  
22 Plan is as follows:  
23  
24

# FOURTH AMENDED PLAN OF REORGANIZATION

No.	Creditor	Votes For	Votes Against	No Vote	Late Filing Filing	Claim Amount
I	Administrative Expenses			X		\$-0-
II	Priority Claims			X		
III	Internal Revenue Service			X		\$304,099.68
IV	Deere Credit, Inc.			X		\$4,859,353.22
V	U.S. Bank Trust, N.A.		X			\$1,960,565.35
VI	Columbia Trust Bank		X			\$737,373.25
VII-1	Elbert B. Schinmann		X			\$111,889.38
VII-2	Douglas F. Bridgman	X				\$243,903.03
VII-3	Robert Lambrecht				X	\$223,514.91
VII-4	American West Bank		X			\$214,609.35
VII-5	Ronald L. Curfman	X				\$73,612.78
VII-6	Gary Simmons			X		\$217,226.43
	Kay Moore					
	Sherran Whatley					
VII-7	Everett Wiggins			X		\$34,000.00
VII-8	Donna Freburn			X		\$1,500.00
VIII	Unsecured Creditors: (Comprised of)					
	Central Pre-Mix Concrete	X				\$5,509.34
	Valley Pipe	X				\$9,329.58
	Yakima Adjustment Service, Inc.			X		\$4,317.82
	Cingular Wireless	X				\$644.79
	Rain & Hail, LLC			X		\$46,631.00
	Hart & Winfree	X				\$42,500.00
IX	Claims of Related Entities: (Comprised of)					
	Cervantes Nurseries, LLC	X				\$-0-
	Cervantes Packing & Storage, LLC	X				\$-0-
	Manchego Real, LLC	X				\$-0-
	Joe and Cynthia Cervantes	X				\$-0-
X	Cervantes Orchards & Vineyards, LLC	X				\$-0-

a. 100% of Voting Class VIII Unsecured Creditors in number and in amount voted to accept the Plan

All Administrative Claimants consented to Plan treatment.

C. **Plan Objections.** Objections to the Disclosure Statement, Plan and/or confirmation were received by the following creditors:

1. U.S. Bank Trust, N.A. U.S. Bank Trust, N.A. objected to the claim amount, release price, refinancing, credit bid, prepayment charges, default provisions, and provisions for DCI. These objections have been resolved by negotiation and stipulations contained in the Fourth Amended Chapter 11 Plan of Reorganization and proposed First Amended Order Confirming Chapter 11 Plan of Reorganization.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING CONFIRMATION OF PLAN - 3

sackmannlaw:CLIENTS:CERVANTES ORCHARDS & VINEYARDS:PLAN:FINDINGS OF FACT PLAN (4/10/07)

1                   2.     Columbia Trust Bank (now AmericanWest Bank). Columbia Trust Bank  
2 (now AmericanWest Bank) objected to correct identification of creditor, disclosure of harvest  
3 expenses, misleading statements in the documents, overly optimistic statements, release  
4 payment terms, payment to unsecured creditors, disclosure of pending litigation, reference to tax  
5 returns, questions on cash flow projections, and the fact that the documents do not provide  
6 enough truthful, factual or complete information to enable a hypothetical investor of a relevant  
7 class to make an informed judgment. These objections have been resolved by negotiation and  
8 stipulations contained in the Fourth Amended Chapter 11 Plan of Reorganization and proposed  
9 First Amended Order Confirming Chapter 11 Plan of Reorganization.

10                   3.     AmericanWest Bank. AmericanWest Bank objected to correct  
11 identification of creditor, disclosure of harvest expenses, misleading statements, overly  
12 optimistic statements, release payment terms, payment to unsecured creditors, disclosure of  
13 pending litigation, reference to tax returns, questions on cash flow projections, and the fact that  
14 the documents do not provide enough truthful, factual or complete information to enable a  
15 hypothetical investor of a relevant class to make an informed judgment. These objections have  
16 been resolved by negotiation and stipulations contained in the Fourth Amended Chapter 11 Plan  
17 of Reorganization and proposed First Amended Order Confirming Chapter 11 Plan of  
18 Reorganization.

19                   4.     Deere Credit, Inc. Deere Credit, Inc. objected to disclosure of anticipated  
20 expenses and revenues, disclosure of information for related entities, itemization of Debtor's  
21 equipment, disclosure of intended litigation, disclosure of tax consequences, claim amount and  
22 interest rate, guarantors of loans, separation of loans, amortization of loan, default provisions,  
23 and release payment terms. Deere Credit, Inc. also objected on the basis that the documents do  
24 not satisfy the requirements of USC §1129(a). These objections have been resolved by  
25 negotiation and stipulations contained in the Fourth Amended Chapter 11 Plan of

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
REGARDING CONFIRMATION OF PLAN - 4

sackmannlaw:CLIENTS:CERVANTES ORCHARDS & VINEYARDS:PLAN:FINDINGS OF FACT PLAN (4/10/07)

1 Reorganization and proposed First Amended Order Confirming Chapter 11 Plan of  
2 Reorganization.

3           5.     Internal Revenue Service. Internal Revenue Service objected to the  
4 Debtor's failure to file appropriate returns, failure to make tax deposits and payment of post-  
5 petition taxes. These objections have been resolved by negotiation and stipulations contained in  
6 the Fourth Amended Chapter 11 Plan of Reorganization and proposed First Amended Order  
7 Confirming Chapter 11 Plan of Reorganization.

8           6.     National Leasing Association. National Leasing Association objected to  
9 disclosure of the potential claim of National Leasing Association, potential liability for patent  
10 infringement and illegal attempt to bar claims arising out of future conduct. These objections  
11 have been resolved by amendments contained in the Fourth Amended Chapter 11 Plan of  
12 Reorganization.

13           7.     U.S. Trustee. U.S. Trustee objected to improper preference for DCI,  
14 unrecorded superior lien on all future assets, liquidating trustee, and ability to fund upcoming  
15 farming years. These objections have been resolved by negotiation and stipulations contained in  
16 the Fourth Amended Chapter 11 Plan of Reorganization and proposed First Amended Order  
17 Confirming Chapter 11 Plan of Reorganization.

18           8.     Everett Wiggins. Everett Wiggins objected to claim amount, claim filing,  
19 and voting on plan. These objections have been resolved by amendments contained in the  
20 proposed First Amended Order Confirming Chapter 11 Plan of Reorganization.

21           9.     The provisions relating to Class 7 claims of real property sellers have  
22 been amended to provide that payments scheduled prior to the Confirmation Date not yet paid  
23 shall be paid on or before the 31st day of July, 2007, pursuant to proposed First Amended  
24 Order Confirming Chapter 11 Plan of Reorganization.

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
REGARDING CONFIRMATION OF PLAN - 5

sackmannlaw:CLIENTS:CERVANTES ORCHARDS & VINEYARDS:PLAN:FINDINGS OF FACT PLAN (4/10/07)

1           10. All creditors received notice of proposed changes to the Fourth Amended  
2 Chapter 11 Plan of Reorganization and the opportunity to object or change their ballot vote per  
3 notice dated March 27, 2007. No creditors have objected or changed their ballot vote.

4           F. Debtor's Plan of Reorganization meets the following requirements:

- 5
- 6           a. The Plan complies with the applicable provisions of Chapter 11;
- 7
- 8           b. Debtor has complied with the applicable provisions of Chapter 11;
- 9
- 10          c. The Plan has been proposed in good faith and not by any means  
11 forbidden by law;
- 12
- 13          d. Any payment made or to be made by Debtor or person acquiring  
14 property under the plan for services or for costs and expenses in or in  
15 connection with the case, or in connection with the Plan and incident to  
16 the case, has been approved by, or is subject to the approval of, the Court  
17 as reasonable;
- 18
- 19          e. With respect to each impaired class of claims or interests, each holder of a  
20 claim or interest of such class has accepted the plan or will receive or  
21 retain under the plan, on account of such claim or interest, property of a  
22 value, as of the effective date of the plan, that is not less than the amount  
23 that such holder would so receive or retain if the Debtor were liquidated  
24 under Chapter 7 of this title on such date.
- 25
- 26          f. With respect to each class of claims or interests such class has accepted  
27 the plan.
- 28
- 29          g. Confirmation of the Plan is not likely to be followed by the liquidation or  
30 the need for further financial reorganization of Debtor or any successor to  
31 Debtor under the Plan;
- 32
- 33          h. All fees payable under § 1930 of Title 28 have been paid or the Plan  
34 provides for the payment of all such fees on the effective date of the Plan;
- 35
- 36          i. Internal Revenue Service has agreed to the plan provisions.
- 37
- 38          j. All holders of undisputed unpaid post petition administrative claims have  
39 agreed to be paid in full and will be paid in full in accordance with the  
40 plan.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**REGARDING CONFIRMATION OF PLAN - 6**

sackmannlaw:CLIENTS:CERVANTES ORCHARDS & VINEYARDS:PLAN:FINDINGS OF FACT PLAN (4/10/07)

1  
2 k. Unsecured Creditors shall receive the following distribution:  
3

4 (1) A cash payment equal to twenty (20%) of the amount of the  
5 Approved Class 8 Claim.  
6

7 (2) The Debtor's unsecured Promissory Note in the amount of eighty  
8 (80%) percent of the Approved Class 8 Claim, which Promissory  
9 Note shall bear interest at the rate of six (6%) percent per annum  
10 and shall be payable in full in a single payment on or before July  
11 31, 2007.  
12

13 l. The proposed Plan does not discriminate unfairly and is fair and equitable  
14 with respect to each class of claims or interests.  
15

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
REGARDING CONFIRMATION OF PLAN - 7**

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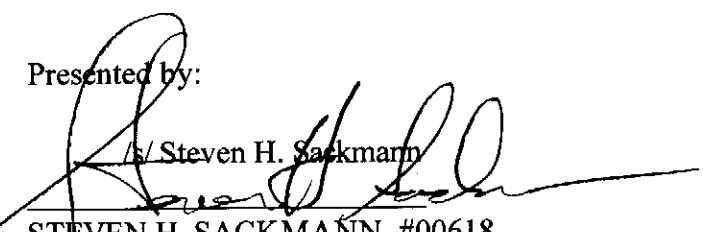
1 Having heretofore made its Findings of Fact, the Court now enters the following:

2 **CONCLUSIONS OF LAW**

3 1. Debtor's Fourth Amended Chapter 11 Plan of Reorganization complies in all  
4 aspects with the applicable provisions of Chapter 11 of the Code, and specifically, 11 USC  
5 §1129.

6 2. Debtor's Fourth Amended Chapter 11 Plan of Reorganization, as modified above,  
7 should be confirmed.

8  
9 Presented by:

10   
11 /s/ Steven H. Sackmann

12  
13 STEVEN H. SACKMANN, #00618

14 Attorney for Debtor

15 P. O. Box 409 - 455 E. Hemlock

16 Othello, Washington 99344

17 (509) 488-5636



04/11/2007 11:27:12 AM

  
John A. Rossmeissl  
Bankruptcy Judge

FINDINGS OF FACT AND CONCLUSIONS OF LAW  
REGARDING CONFIRMATION OF PLAN - 8

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